

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

REBECCA KOWALD, ROBERT ZEIER,
WILLIAM CADWALLADER, RAYMOND BOYLE,
DAVID THOM, JOANN WINTER, JOHN GRUBER,
ROBERT WENTWORTH, MICHAEL O'GRADY, and
CRYSTAL THOM,

Plaintiffs,

v.

COLUMBIA COUNTY, DENNIS RICHARDS,
ROGER BRANDNER, JOSEPH RUF, JORDAN
HAUETER, LEDA WAGNER, DOUGLAS
JARZYNSKI, DAVID CLARK, MICHAEL HAVERLEY,
MARK SMIT, ALEXANDER AGNEW,
BENJAMIN OETZMAN, TERRI PULVERMACHER,
MAX JENANASCHET, CORY MILLER,
GREGORY BISCH, PORTAGE COMMUNITY
SCHOOLS, DANIEL GARRIGAN, CHARLES
POCHES, MATHEW FOSTER, PETER HIBNER,
ROBIN KVALO, BRAD MEIXNER, SUSAN CONNER,
CITY OF PORTAGE, SHAWN MURPHY, KENNETH
MANTHEY, JASON STENBERG, ROBERT
BANGELL, KEITH KLFKE, BENJAMIN
NEUMANN, KEVIN TODRYK, PETER WARING,
PETER BARTACZEWCZ, ANTHONY BRAUNER,
MICHAEL SCHUTZ, DAWN WILCOX,
MARIE MOE, THOMAS DRURY, CHARLES
MILLER, KATHRYN E. MILLER, MICHAEL
HAVERLEY, VILLAGE OF PARDEEVILLE, ROBERT
BECKER, VERN GOVE, MARK HAZELBAKER,
CHARLES F. CHURCH, ANYTIME FITNESS CORP.,
and ANDREW GUNDLACH,

ORDER

18-cv-582-jdp

Defendants.

This civil action is substantially similar to another case pending in this court, case number 18-cv-368-jdp, in which plaintiffs David Thom, Crystal Thom, William Cadwallader, Robert Wentworth, Raymond Boyle, and Michael O'Grady sued more than 40 defendants

associated with numerous local government entities for violations of their rights under the United States Constitution and state law. A couple of months after filing 18-cv-368-jdp in this court, the plaintiffs, joined by plaintiffs Rebecca Kowald, Joanne Winter, Robert Zeier, and John Gruber, filed a separate action in the Circuit Court for Columbia County, alleging federal and state constitutional claims nearly identical to those in case 18-cv-368-jdp, as well as several additional claims. A subset of the defendants accepted service of the complaint and then removed the case to this court on July 25, 2018. Dkt. 1. The removed case was assigned case number 18-cv-582-jdp.

On March 25, 2019, I issued an order remanding plaintiff's claims under the Wisconsin Constitution back to state court, granting in part and denying in part motions to dismiss filed by subsets of the defendants, and directing defendants to file a response to this order explaining how they wish to proceed with this case in light of the seven unrelated claims that remained in this case. Defendants have responded, stating that they will pay removal fees for the six additional lawsuits. Dkt. 31. I will assign case number 18-cv-852-jdp to the claims in Lawsuit 1. I will assign additional case numbers to the claims in the remaining six lawsuits.

Defendants also ask that plaintiffs be required to file amended complaints in each of the seven lawsuits. I am denying this request because it would be inefficient and would likely lead to new allegations and claims that were not included in the original complaint. Plaintiffs' original complaint, the March 25 order, and this order will be docketed in each of the new cases. In responding to the complaint in each case, defendants should respond only to the allegations that apply to the specific claims at issue in the specific case.

Defendants also state that they intend to move the court to consolidate these cases with any lawsuits that stem from the 18-cv-368-jdp case. But consolidation is premature at this

stage because it is not yet clear which claims plaintiffs will proceed with in 18-cv-368-jdp. Defendants are free to request consolidation if plaintiffs decide to move forward with any of the claims raised in 18-cv-368-jdp.

Finally, after reviewing my previous order dismissal several claims and the claims that are remaining claims in each of the seven lawsuits, I conclude that plaintiffs have no claims against defendants Robert Bagnell, Benjamin Neumann, Peter Bartaczewicz, Kevin Manthey, Anthony Brauner, Michael Schutz, Thomas Drury, Charles Miller, Kathryn Miller, Leda Wagner, Douglas Jarzynski, and Terri Pulvermacher. I will dismiss these individuals as defendants.

ORDER

IT IS ORDERED that:

1. Case No. 18-cv-582-jdp is assigned to the following claims:

Plaintiffs David Thom, Crystal Thom, and Michael O'Grady's challenge to school district search policies and searches and seizures performed in schools by local law enforcement and a multi-county drug task force, including targeted searches, seizures, and interrogations of David Thom's, Crystal Thom's, and O'Grady's children. (Counts 1, 2, and 3 of Dkt. 1-1). The defendants in this case are Portage Community Schools, Robin Kvalo, Daniel Garrigan, Charles Poches, Peter Hibner, Matthew Foster, Brad Meixner, Jason Stenberg, City of Portage, Peter Warning, Susan Conner, and Keith Klafke.

2. Case No. 19-cv-514-jdp is assigned to the following claims:

Plaintiff Robert Wentworth's claim that his business has been targeted for excessive surveillance and that his customers and employees have been harassed by local law enforcement (Count 6 of Dkt. 1-1). The defendants in this case are Columbia County, Roger Brandner, Michael Haverley, Mark Smit, Jorden Haueter, David Clark, Cory Miller, and Robert Becker.

3. Case No. 19-cv-515-jdp is assigned to the following claims:

Plaintiff O'Grady's challenge to Portage High School's parking permit policy and the ticket he received (Count 7 of Dkt. 1-1). The defendants in this case are City of Portage, Portage Community Schools, Kevin Todryk, Marie Moe, and Dawn Wilcox.

4. Case No. 19-cv-516-jdp is assigned to the following claims:

Plaintiff Raymond Boyle's challenge to a Village of Pardeeville ordinance relating to riding lawn mowers and a ticket he received (part of Count 8 of Dkt. 1-1). The defendants in this case are Village of Pardeeville, Columbia County, and Michael Haverley.

5. Case No. 19-cv-517-jdp is assigned to the following claims:

Plaintiff Boyle's challenge to a warrantless entry into his residence and a subsequent unlawful arrest (part of Count 8 of Dkt. 1-1). The defendants in this case are Columbia County, Cory Miller, David Clark, Alexander Agnew, Benjamin Oetzman, Mark Smit, Jorden Haueter, Roger Brandner, Gregory Bisch, and Michael Haverley.

6. Case No. 19-cv-518-jdp is assigned to the following claims:

Plaintiffs O'Grady, Boyle, Wentworth, Crystal Thom, David Thom, and Cadwallader's claims that several defendants have retaliated against them for plaintiffs' filing lawsuit 18-cv-368-jdp. The defendants in this case are Columbia County, City of Portage, Portage Community Schools, Vern Gove, Joseph Ruf, Shawn Murphy, Mathew Foster, Charles Poches, Mark Hazelbaker, Anytime Fitness Corp., Andrew Gundlach, Mark Smit, Benjamin Oetzman, Alexander Agnew, Dennis Richards, Max Jenatscheck, and Charles Church.

7. Case No. 19-cv-519-jdp is assigned to the following claims:

Plaintiffs Rebecca Kowald, Joann Winter, Robert Zeier, John Gruber, William Cadawaller, Robert Wentworth, Raymond Boyle, Michael O'Grady, David Thom, and Crystal Thom's claim that Wis. Stat. § 813.125 is unconstitutional. The defendants in this case are Columbia County, Portage Community Schools, City of Portage, Vern Gove, Joseph Ruf, Mark Hazelbaker, Roger Brandner, Benjamin Oetzman, and Charles Church.

8. Defendants may have until July 9, 2019 to pay the filing fees for Case Nos. 19-cv-514-jdp, 19-cv-515-jdp, 19-cv-516-jdp, 19-cv-517-jdp, 19-cv-518-jdp, and 19-cv-519-jdp identified above. If they fail to pay the filing fees by July 9, 2019, those cases will be remanded to state court.
9. Robert Bagnell, Benjamin Neumann, Peter Bartaczewicz, Kevin Manthey, Anthony Brauner, Michael Schutz, Thomas Drury, Charles Miller, Kathryn Miller, Leda Wagner, Douglas Jarzynski, and Terri Pulvermacher are DISMISSED as defendants.

Entered June 26, 2019.

BY THE COURT:

/s/

JAMES D. PETERSON
District Judge